



Superior Court Law Library

En Banc

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News from the Law Library

New Library Staff

Diana L. Clarke assumed new duties as the Law Library's Assistant Director in June 2009 with the reassignment of Jennifer Murray to Family Court Administration. Diana previously served the Judicial Branch as the Court Administrator for Probate/Mental Health from 2000 through 2007, and as the Attorney for Administrative Services from January 2008 through June 2009. Diana concurrently acts as the Court Administrator for Public Access to Court Services, which includes the Court's Self-Service Center and Family Violence Prevention Center operations. As Assistant Director, Diana oversees the daily operation and administration of the Law Library and its twelve employees, consisting of reference and research experts, and its budget, procurement and inventory specialists. Prior to joining the Judicial Branch, Diana was a civil litigation attorney in private practice for ten years, primarily involved with insurance defense matters, including professional negligence cases, real estate disputes, product liability claims, workplace issues and personal injury lawsuits. Before attending law school, Diana was Investigations Supervisor for the Securities Division of the Arizona Corporation Commission, responsible for overseeing civil and criminal investigations into investment and securities fraud cases in Arizona. She obtained her Juris Doctor and Master of Science in Justice Studies from Arizona State University, and her Bachelor of Arts from the University of California at Davis, CA.

New Library Service

The Law Library recently completed a long procurement process that resulted in the purchase of a new integrated online library system. In the next six to eight months, the library will be working closely with Innovative Interfaces, Inc. to migrate from our current system to its Millennium system. The current library database system has been in operation for over ten years and that system, along with the servers it uses, is nearing the end of its life. It was time for a change.

What does this mean to you, the library user? On the surface, you may not notice much change. We will still use the same library cards. Accordingly, if you are already registered with the library, you will not have to re-register. But some things will change. Expect a new look for our catalog, which will provide better searching capabilities, new features and enhancements. Once we have everything running smoothly (this is a new system after all – these kinds of things take time) it should be easier to tell if the book you are looking at is current or not and when the next expected update is due. Shiny and new!

Over the next few months, library staff will be attending long training sessions to become familiar with the new system and to learn how to best put it to use for you – our customers. Pardon our dust while we renovate; but in the end, we think you will agree it was well worth the wait!

Case Review

People v. Nguyen

No. S154847

California Supreme Court (July 2, 2009)

The California Supreme Court has ruled that the use of a juvenile's prior felony conviction is constitutional for purposes of that state's Three Strikes Law. The decision of the Supreme Court overturned the Court of Appeals who ruled that because the Defendant had no right to a jury trial in his juvenile proceeding, the Fifth, Sixth, and Fourteenth Amendments barred the use of the juvenile court adjudication to enhance his sentence in an adult court proceeding.

After the Defendant pled guilty to possession of a firearm and a billy by an ex-felon, he "waived his statutory right to a jury trial on the issue whether he '[had] suffered' the prior strike...i.e., the 1999 juvenile adjudication." The strike allegation was found to be true based on documentary evidence which included, among other things that the Defendant admitted to the juvenile violation. Because of the prior strike, the Court doubled the Defendant's 16 month sentence to 32 months. In his appeal, the Defendant's main argument against the use of his juvenile adjudication was that he had no right to a jury in his juvenile proceeding and as such the use of the "juvenile adjudication as a strike in the current case was a violation of his Sixth Amendment rights" as construed in *Apprendi* (530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435).

California's high court ruled that under *Apprendi* "any 'fact' that allows enhancement of an adult defendant's maximum sentence *for the current offense* must, unless the defendant waives his jury-trial right, be determined by a jury *in the current case*." In other words, the Court continued, "the literal *rule of Apprendi* thus required only that a jury in the current proceeding determine the existence of such an alleged prior adjudication."

Another argument rejected by the Supreme Court was that the ruling of the Court of Appeals returned the juvenile court to "its original credo of 'parens patriae'." The high court reasoned that the concept of "parens patriae" was only successful if a youth was rehabilitated but if the youth reoffended as an adult, "this recidivism is a highly rational basis for enhancing the sentence for the adult offense."

As a side note, there are 41 states with habitual offender laws much like the Three Strikes Law. Only California and Texas use juvenile convictions to enhance sentences.

FAQ

Q. How do I get an annulment of my marriage in Arizona?

A. An annulment of marriage declares that the marriage was invalid from the beginning. In Arizona, to obtain an annulment, the petition must state the grounds for the annulment. Possible grounds for annulment include such situations as an undissolved prior marriage, a blood relationship between the parties, absence of physical or mental capacity, as well as other grounds. A book in the Law Library entitled *Marriage Dissolution Practice* has a list of possible grounds for annulment. Contrary to popular belief, the amount of time for which the parties have been married is not a ground for an annulment.

The Self-Service Center does not have preprinted annulment forms for use in Maricopa County. However, parties interested in an annulment have several options to obtain the forms necessary to file. They may contact an attorney or check with a legal forms store. *Marriage Dissolution Practice* includes a sample of a Petition for Annulment that a party may be able to use to draft their own petition. Another option we give our customers is to use the Petition for Annulment found on Yavapai County's web page at <http://www.co.yavapai.az.us/courtform.aspx?id=1276>, by adapting it for use in Maricopa County.

Library Tip

Create Online Booklists in the Law Library Catalog

If you're a frequent library user, you probably have some favorite resources. If you're starting a research project, you may want to keep track of useful titles. Go to <http://lawlibrary.maricopa.gov>, and click the Login link in the upper right-hand corner. Enter the barcode from your Law Library card then click the Account Login button. Quick tip: Enter just the numbers after the zeroes.

Go ahead and browse, search, check out the new books tab. Next to each title and on each record you find, there is a button labeled Add to My List - notice the button changes from gray to green when clicked? Look at the My List link in the upper right-hand corner to see how many books are on your list. Each list can have 100 books, and each library user can have ten lists. Those lists will be stored in our server for ninety days. Click the My List link to create new lists and move books to them, send requests to have the library hold individual titles, and email booklists to yourself or colleagues in one of four different formats. Keep track of the resources you have found at the library, and make the most of your research time. Don't forget to log out when you are finished.

Research Tip - Westlaw

Have you ever wished you had desktop access to the 136 volumes of *Words and Phrases*? *Words and Phrases* contains legal definitions to terms and phrases as they are used in case law. It defines words and phrases from "reasonable" and "amount in dispute" to "any" and "is." This useful dictionary can be replicated with a simple "field" search in *Westlaw*. For instance, after you select your database, construct a "Terms and Connectors" search that looks like:

Example:

Terms & Connectors	Natural Language
wp (reasonable)	

Results:

Results: 30 Documents [Add Search to WestClip](#)

SELECT TO PRINT, EMAIL, ETC.

☐ **1. A.R.S. Const. Art. 2 § 4**
Arizona Revised Statutes Annotated Constitution of the State of Arizona Article II. Declaration of Rights § 4. Due process of law

...App. Div.1 1999) 196 Ariz. 102, 993 P.2d 1066 reconsideration denied, review denied. Constitutional Law ⇨ 3875 Whether expectation of entitlement to be conferred or withheld by state is "reasonable" for purpose of due process analysis is determined largely by language of statute and extent to which entitlement is couched in mandatory terms. *Shelby School v. Arizona State Bd. of...*

...5) that his reliance was reasonable. *U.S. v. Batterjee*, C.A.9 (Ariz.)2004, 361 F.3d 1210 Criminal Law ⇨ 37 (2.1) Defendant's reliance on government official's erroneous advice is "reasonable," as required to support an entrapment by estoppel defense, if a person sincerely desirous of obeying the law would have accepted information as true and would not have been put...

☐ **2. A.R.S. Const. Art. 2 § 25**
Arizona Revised Statutes Annotated Constitution of the State of Arizona Article II. Declaration of Rights § 25. Bills of attainder; ex post facto laws; impairment of contract obligations

...Arizona Elec. Power Co-op., Inc. (App. Div.1 2004) 207 Ariz. 95, 83 P.3d 573 amended on denial of reconsideration, review denied. Constitutional Law ⇨ 2672 The "doctrine of reasonable expectations" relieves a party from certain clauses of an agreement which he did not negotiate, probably did not read, and probably would not have understood had he read them. *Philadelphia...*

Note: If you are searching for a phrase, put the phrase in quotation marks.

Example: **WP ("amount in dispute")**

This WP field search can be used in all the Westlaw statute and case law databases.